

REMARKS

Claims 1, 5-10 and 13 - 20 are pending. Claims 3 and 11 are currently canceled. Claims 5-9 and 15-20 have been withdrawn from consideration. Claim 1 is currently amended. Support for the amendment of Claim 1 is found in the specification on page 5, lines 28-29, and on page 8, lines 9-12. Reconsideration of the application is requested.

§ 103 Rejections

Claims 1, 3, 10-11 and 13-14 are rejected under 35 USC § 103(a) as being unpatentable over Pilgaard et al. (US 2005/0019383) in view of Shaw et al. (US 6,231,939).

The examiner is incorrect in combining Pilgaard et al. and Shaw et al.. Specifically, as Applicant has argued previously, the teaching of Shaw et al. regarding resistance to oxygen is unrelated to the purposes of the barrier layer in Pilgaard et al. and as a result there is no motivation for one of ordinary skill in the art to combine the disclosures. Applicant does not discern from the disclosure of Shaw et al. that the described aluminum oxide barrier layer is a "better barrier layer" (as contended by the examiner) for the purposes of Pilgaard et al. - which is to separate active ingredient and adhesive with a barrier layer that is impermeable (in contact with) to the active ingredient and adhesive. Further, it is not understood how a barrier layer with resistance to oxygen would enhance the stability of the transdermal device disclosed in Pilgaard et al. as also contended by the Examiner.

Further, Claim 1 now recites that the inorganic layer is greater than 10 nm and less than 100 nm thick. In Shaw et al. the only mention of the thickness of the barrier layer is the statement in column 2, line 37 reciting "coating layers being on the order of 1 micrometer or less". There are no examples provided in Shaw et al..

The rejection of claim 1 under 35 USC § 103(a) as being unpatentable over Pilgaard et al. in view of Shaw et al. has been overcome and should be withdrawn in view of the amendment of Claim 1 and Applicant's comments above.

Pending dependent Claims 1, 10 and 13-14 each add additional features to Claim 1. Claim 1 is allowable for the reasons given above. Thus, Claims 10 and 13-14 are allowable for the reason they depend from Claim 1 and for the further reason that they recite further features not recited in Claim 1.

In summary, the rejection of pending claims 1, 10 and 13-14 under 35 USC § 103(a) as being unpatentable over Pilgaard et al. in view of Shaw et al. has been overcome and should be withdrawn.

With this response, an earnest effort has been made to respond to all issues raised in the Notice of Non-Compliant Amendment. In view of the above, it is submitted that the application is in condition for allowance and reconsideration of the application is requested.

Respectfully submitted,

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